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UNITED STATES DISTRICT COURT  
DISTRICT OF WYOMING

United States of America,

Plaintiff,

v.

Civil No. 2:07-cv-19-CAB

Jane Joyce Rice; Water Garden, Inc.;  
Perpetual Legacy Corp.; Carte Blanche  
Trust; & Newport Pacific Trust Co.,  
Ltd.;

Defendants.

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**UNITED STATES' MOTION FOR ENTRY OF DEFAULT  
JUDGMENT AGAINST DEFENDANT PERPETUAL LEGACY CORP.**

The United States, by its undersigned counsel, pursuant to Fed. R. Civ. P.

55(b), hereby moves this Court to enter default judgment against Defendant Perpetual Legacy Corp. ("Perpetual Legacy") because it has failed to appear and file a responsive pleading in this action.

## **BACKGROUND**

The United States commenced this action on January 19, 2007, *see* Doc. # 1, and service of process upon Perpetual Legacy was completed by publication on June 13, 2007. *See* Docs. # 21 & 32. Consequently, Perpetual Legacy was required to appear and/or otherwise plead in this action no later than July 5, 2007. *See* Fed. R. Civ. P. 12(a)(1)(A); Doc. # 32. To date, Perpetual Legacy has not filed an answer or otherwise responded to the Complaint, or appeared in any other manner before the Court in this matter. *See generally* Civil Docket for Case # 2:07-cv-19-CAB. The clerk of court entered default against Perpetual Legacy on August 13, 2007. *See* Doc. # 37.

## **ARGUMENT**

Fed. R. Civ. P. 55(a) provides that "[w]hen a party against whom a judgment for affirmative relief is sought has failed to plead or otherwise defend," the party may be defaulted. Once such a default occurs, a party seeking affirmative relief may move for default judgment. *See* Fed. R. Civ. P. 55(b). The entry of default judgment is committed to the District Court's sound discretion. *See, e.g., Olcott v. Delaware Flood Co.*, 327 F.3d 1115, 1124 (10th Cir. 2003).

Here, the entry of default judgment against Perpetual Legacy is justified in light of its failure to appear and plead. The Complaint seeks to reduce to judgment federal income tax assessments made against Defendant Jane Joyce Rice, and to foreclose on her property. Perpetual Legacy was named as a defendant solely to satisfy 26 U.S.C. § 7403(b)'s requirement that "[a]ll persons . . . claiming any interest in the property involved in [an action to enforce a tax lien] shall be made parties thereto." Perpetual Legacy's potential interest in property involved in this matter arises out of the purported transfer of Defendant Jane Joyce Rice's royalty interest in mineral rights from Defendant Jane Joyce Rice to Perpetual Legacy on November 8, 2000, by royalty deed. Defendant Jane Joyce Rice's royalty interest in mineral rights is more particularly described as follows:

An approximate 1% mineral rights royalty interest in 1,356.25 acres in Sheridan County, Wyoming.

As noted in the United States' Motion for Service by Publication, filed on May 7, 2007 (Doc. # 19), Perpetual Legacy bears all the hallmarks of a fictitious entity. Nevertheless, Perpetual Legacy was named as a defendant out of an abundance of caution in case it claimed an interest in Defendant Jane Joyce Rice's royalty interest in mineral rights, or any other property described in the Complaint which is the subject of this action. Perpetual Legacy has failed to appear or otherwise defend, or to claim, an interest in any property whatsoever.

## CONCLUSION

Perpetual Legacy has failed to make any appearance in this matter to claim or defend any interest in any property whatsoever, despite the fact that the clerk of court has entered default against it. As such, the United States respectfully requests that this Court grant its motion for entry of default judgment against Perpetual Legacy.

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Dated: August 30, 2007

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